



PATENT  
Customer No. 22,852  
Attorney Docket No. 6530.0145-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
VINCENT TURTURRO et al. ) Group Art Unit: 3736  
)  
Serial No.: 09/977,289 ) Examiner: B. SZMAL  
)  
Filed: October 16, 2001 )  
) Confirmation No. 3612  
For: BIOPSY INSTRUMENT HAVING )  
IRRIGATION AND ASPIRATION )  
CAPABILITIES )

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450

Sir:

**SUBSTITUTE TERMINAL DISCLAIMER**

This Substitute Terminal Disclaimer replaces the prior Terminal Disclaimer filed on September 14, 2004, which was not signed by an attorney or record. This Substitute Terminal Disclaimer is signed by an attorney who is listed in the Declaration and Power of Attorney filed in Application No. 09/079,168, to which this application claims priority, as having the attorney power in this application. A copy of that Declaration is provided with this filing.

Boston Scientific Scimed, Inc. ("BS Scimed"), duly organized under the laws of Minnesota and having its principal place of business at One Scimed Place, Maple Grove, MN, 55311, represents that it is the assignee of the entire right, title and interest in and to the above-identified application, Application No. 09/977,289, filed October 16,

Adjustment date: 03/07/2005 CCHAU1  
09/15/2004 AADOF01 00000051 09977289  
02 FC:1814 -110.00 OP

03/07/2005 CCHAU1 00000063 09977289 130.00 OP  
01 FC:1814

2001 for BIOPSY INSTRUMENT HAVING IRRIGATION AND ASPIRATION

CAPABILITIES in the names of Vincent TURTURRO, Jose FRANCESE, Saul GOTTLIEB, and Juergen KORTENBACH, as indicated by an assignment to Scimed Life Systems, Inc. duly recorded in parent Application No. 09/079,168, filed May 15, 1998 (now U.S. Patent No. 6,331,165), in the U.S. Patent and Trademark Office at Reel 009370, Frame 0428 on August 4, 1998, and a name change from Scimed Life Systems, Inc. to Boston Scientific Scimed, Inc. duly recorded in this application in the U.S. Patent and Trademark Office at Reel 015717, Frame 0078 on February 15, 2005.

Symbiosis Corporation ("Symbiosis"), duly organized under the laws of Florida and having its principal place of business at 8600 N.W. 41<sup>st</sup> Street, Miami, Florida, 33166, represents that it is the assignee of the entire right, title and interest in and to U.S. Patent No. 5,897,507, as indicated by an assignment duly recorded in the U.S. Patent and Trademark Office at Reel 008336, Frame 0184 on November 25, 1996.

Both BS Scimed and Symbiosis are wholly owned subsidiaries of their parent company, Boston Scientific Corporation ("BSC" or "Assignee"). Thus, this application and U.S. Patent No. 5,897,507 are commonly owned by Assignee.

To obviate a double patenting rejection, Assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,897,507. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior U.S. Patent No. 5,897,507 are commonly owned. This

agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of prior U.S. Patent No. 5,897,507, as presently shortened by any terminal disclaimer, in the event that prior U.S. Patent No. 5,897,507 later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is paid. A portion of the fee, \$110.00; was filed with the Terminal Disclaimer filed on September 14, 2004. Applicants submit herewith a check for \$20.00 to cover the remaining balance of the disclaimer fee.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Substitute Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to Deposit Account No. 06-0916.

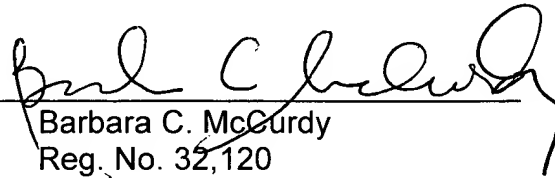
The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 4, 2005

By:

  
Barbara C. McCurdy  
Reg. No. 32,120